

DEPARTMENT OF STATE REVENUE

**LETTER OF FINDINGS NUMBER 94-0041 AGI
Adjusted Gross Income Tax
For Tax Years 1988, 1989, 1990, And 1991**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

1. INDIVIDUAL INCOME TAX - AMOUNT DUE

Authority: IC 6-8.1-5-1

The taxpayer protested the amount of tax due.

STATEMENT OF FACTS

Taxpayer operates a sole proprietorship that acts as a retail merchant. The taxpayer operates on a cash basis. The taxpayer did not maintain adequate books and records. The audit was based on the best information available.

DISCUSSION

1. INDIVIDUAL INCOME TAX - AMOUNT DUE

The taxpayer protested the amount of tax assessed in the audit. The taxpayer did not have additional records available. The taxpayer stated that he had given all of his records to the auditor. Under IC 6-8.1-5-1, the notice of proposed assessment is prima facie evidence that the assessment is valid. This taxpayer must prove that the assessment is not valid. The taxpayer stated that some of the sales were to a dealer in another city and that the commissions were overstated, because they are included in net profit. The taxpayer did not provide evidence that income was overstated. IC 6-8.1-5-4 requires the taxpayer to keep adequate books and records. The taxpayer had few books and records. The books and records maintained by the taxpayer were determined to be inadequate and the auditor had to resort to the best information available.

FINDINGS

The taxpayer's protest is denied.